

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TIMOTHY BURGESS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. 16-CV-788-JPS

ORDER


On June 22, 2016, Petitioner filed a motion pursuant to 28 U.S.C. § 2255 challenging his sentence pursuant to the Due Process Clause and *Johnson v. United States*, 135 S. Ct. 2551 (2015). (Docket #1). On June 27, 2016, the Court stayed this matter pending disposition of several relevant cases before the Court of Appeals for the Seventh Circuit. (Docket #2). On March 15, 2017, while the matter remained stayed and before Respondent was served or had answered, Petitioner filed a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I). (Docket #3). The Court will adopt that notice of dismissal. *See* Fed. R. Civ. P. 41(a)(1)(A)(I); *Garrett v. United States*, 178 F.3d 940, 942 n.2 (7th Cir. 1999) (noting that Rule 41 applies to habeas cases).

Accordingly,

IT IS ORDERED that Petitioner's notice of voluntary dismissal (Docket #3) be and the same is hereby **ADOPTED**; this action be and the same is hereby **DISMISSED without prejudice** and without costs or fees to any party.

Dated at Milwaukee, Wisconsin, this 16th day of March, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge